

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

ORLANDO CHAVEZ,

Plaintiff,

Case No:

v.

UNUM LIFE INSURANCE COMPANY OF AMERICA

Defendant,

**COMPLAINT UNDER ERISA FOR RECOVERY OF
DISABILITY INSURANCE BENEFITS**

COMES NOW, Plaintiff, Mr. Orlando A. Chavez, by his attorney, Jeffrey B. Diamond, and for cause of action against the Defendant, states:

1. Plaintiff is a resident of Bernalillo, New Mexico, and the Defendant engages in the insurance business in the State of New Mexico. This action is brought pursuant to 29 USC §1132, §502(a) of the Employee Retirement Income Security Act of 1974. Jurisdiction and venue are proper in this Court pursuant to Subsection (e)(1) of 29 USC §1132.
2. Plaintiff is insured for long term disability insurance benefits under policy 121282 and properly filed claim 9590320 for benefits which was improperly and arbitrarily and capriciously denied by Defendant on September 7, 2016.
3. Plaintiff was employed by the Middle Rio Grande Conservancy District, as an Irrigation Systems Operator and Supervisor. Plaintiff has been totally and permanently disabled since, on or about, August 13, 2013 from his usual work and any other work for which he is qualified by reason of age, education, training, and experience as the result of a combination of physical and mental impairments.

The Plaintiff was paid 24 months of disability benefits for mental illness due to his behavioral health condition until February 10, 2016.

4. Plaintiff submitted medical evidence from examining and treating medical sources, a vocational evaluation, and a functional capacity assessment which demonstrated under the terms of the subject policy, the Plaintiff could not perform the “duties of any gainful occupation for which you are reasonably fitted by education, training, or experience,” and certainly not within the income requirement specified in the policy.
5. Defendant Metropolitan Life Insurance Company acting through its subsidiary MetLife Disability, also known as MetLife, and Defendant Limited Brands, Inc., either individually, or jointly, issued a policy of short-term and long-term disability insurance benefits for the benefit of the Plaintiff, who made claim therefore under claim Number 580207016726, and provided sufficient medical evidence, health history, and other relevant, necessary, and material evidence in support of the said claim, including releases for the Defendants to obtain information from medical and other sources, so as to qualify for and be entitled to the receipt of benefits under such disability income policy.
6. The Plaintiff made due and proper application for disability benefits under the subject plan, and the Defendant has improperly, unlawfully, and in derogation of the subject disability plan, arbitrarily, capriciously, in bad faith, negligently, and otherwise wrongfully denied the Plaintiff the benefits to which he was entitled. Plaintiff exhausted all his administrative remedies prior to filing this complaint.
7. That as a direct result of the arbitrary and capricious, wrongful, unlawful, improper, negligent and bad faith refusal of the Defendant to pay the Plaintiff disability benefits pursuant to the subject plan, the Plaintiff has suffered financial

loss and hardship, and deprivation of contractual benefits under the disability plan, and the Court should award the Plaintiff a judgment against the Defendants for all disability insurance benefits to which the Plaintiff was entitled under the plan, together with interest thereon, reasonable attorney fees, costs of suit, and such other and further relief as the Court deems just and proper.

WHEREFORE, Plaintiff requests the Court award him damages against the Defendant for all disability income benefits due Plaintiff since February 11, 2016, together with accrued interest thereon, costs, reasonable attorney fees, and such other and further relief as the Court deems just in the premises.

Respectfully submitted,

JEFF DIAMOND LAW FIRM

/s/Jeffrey B. Diamond (filed 3/2/2017)

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